

REMARKS

This Response is to the non-final Office Action mailed on February 21, 2007. Claims 1 to 30 are pending in this application. Claims 1, 9 to 11, 13, 23, 24 and 30 have been amended herein without adding any new matter. Applicants believe that no fee is due in connection with this Response however, please charge Deposit Account No. 02-1818 for any fees deemed owed.

In the Office Action Claims 1, 13 and 24 were rejected under 35 U.S.C. §112, second paragraph for a lack of antecedent basis for the term “the patient’s peritoneal cavity”. Clarification was also requested for the use of both “dialysate” and “a therapy fluid”.

Regarding the term “the patient’s peritoneal cavity”, Applicants respectfully submit that if the Examiner desires antecedent basis for the term “the patient”, such antecedent basis exists in the preamble of each of Claims 1, 13, and 24. If on the other hand, the Examiner desires antecedent basis for the term “peritoneal cavity”, Applicants respectfully submit that the language “a peritoneal cavity” may sound peculiar to one skilled in the art because a person is generally considered to have only one peritoneal cavity. Applicants are not opposed to amending to further this case, for example if Examiner wishes to suggest language via an Examiner’s Amendment, however, Applicants respectfully request that the Examiner consider these remarks before making such request.

Regarding the use of both terms “dialysate” and “therapy fluid” in claims 13 and 24, the original specification at page 18, line 22 states:

As used herein, the term “therapy fluid” or other like terms means any suitable fluid or solution that can be administered during dialysis therapy. The therapy fluids can include, for example, a fresh source of dialysate solution that has not been used during therapy, a waste or spent dialysate that contains solutes and metabolic waste removed from the patient during therapy, a clean source of dialysate that has been cleaned by sorbent materials or the like, a source of ultrafiltrate that has been passed from the patient to be mixed with the dialysate during treatment, a solution that includes an osmotic agent in a sufficient amount to enhance the diffusive properties of the therapy fluid, other suitable solutions and combinations thereof.

Thus “therapy fluid” includes the fresh dialysate but also the fluid that results after being pumped through the patient’s peritoneum one or more times, presumably accumulating waste, toxins and excess water or ultrafiltrate.

The paragraph at page 20, line 12 of the original specification is illustrative:

As shown in Fig. 3A, the fluid loop 42 of the present invention can include two sets of two pumps in series 44. The sets of pumps 44 are positioned on the inflow side and the outflow side of the fluid path connected to the patient 46 via the catheter 48. The fluid loop 42 also includes a chamber 49 which can act to accumulate an increase in therapy fluid volume during treatment. The chamber can include any suitable device for accumulating therapy fluid, such as a bag typically used in dialysis therapy. As well, the fresh supply of dialysate (not shown) can be fed into the accumulator bag 49 during use. In this regard, the accumulator bag 49 can also be adapted to heat and/or mix the fresh dialysate with dialysate that circulates along the fluid loop. Alternatively, a separate chamber (not shown) can be coupled to the fluid loop through which a fresh source of dialysate can pass into the fluid loop as previously discussed.

For ease of understanding the claims, "therapy fluid" has been amended to "dialysate" or deleted in all places. By doing so, however, Applicants wish to clarify that "dialysate" as claimed can be fresh dialysate, dialysate with waste, toxins and/or excess water or ultrafiltrate, dialysate that has been cleaned or fortified, etc., according to the broader definition of "therapy fluid" above.

Please note that the amendments to remove "therapy fluid" from the claims are made solely for the purpose described above and in no way to distinguish from the prior art or disclaim any subject matter with respect to same.

Applicants thank the Examiner for such a precise reading of the claims. The application should be in condition for allowance unless an Examiner's amendment is needed as discussed above. Applicants respectfully request that the attorney below be contacted to make any such amendment.

Respectfully submitted,

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Dated: March 6, 2007